

FILED

2008 JUL 10 PM 2:11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Magistrate Docket No. CLERK US DISTRICT COURT
 Plaintiff,) 08 MJ 2097 SOUTHERN DISTRICT OF CALIFORNIA
 v.) BY *VNH* DEPUTY
 Celestino LOPEZ-Hernandez,) COMPLAINT FOR VIOLATION OF:
 Defendant) Title 8, U.S.C., Section 1326
) Deported Alien Found in the
) United States
)

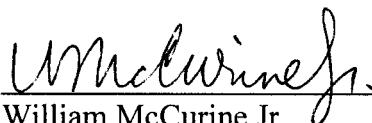
The undersigned complainant, being duly sworn, states:

On or about **July 9, 2008** within the Southern District of California, defendant, **Celestino LOPEZ-Hernandez**, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 10th DAY OF JULY, 2008


 William McCurine Jr.
 UNITED STATES MAGISTRATE JUDGE

CONTINUATION OF COMPLAINT:
Celestino LOPEZ-Hernandez

PROBABLE CAUSE STATEMENT

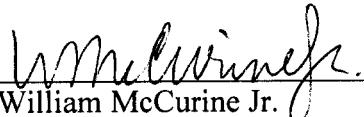
On July 8, 2008, Border Patrol Agent S. Simon was assigned to line watch duties in the vicinity of Dulzura, California. At approximately 11:25 p.m., San Diego Sector Communications notified Agents via radio dispatch that a seismic intrusion device had been activated in an area known as "Patty's House." This area is located approximately two miles north of the International Border between the United States and Mexico, and approximately six miles west of the Tecate, California Port of Entry. This area is commonly used by undocumented aliens looking to further their illegal entry into the United States. Agent Simon made his way to the area and was subsequently notified by an infrared scope operator that a group of eight suspected illegal aliens were making their way north from the device. Agent Simon positioned himself behind the group and began to move into position to apprehend them. As Agent Simon approached the group, the individuals saw him and they immediately began to run north in an attempt to evade apprehension. The group of suspected illegal aliens broke into three smaller groups.

Agent Simon followed the largest group of four people. Agent Simon tracked the foot prints of the group of four and after 45 minutes found them at the bottom of a small canyon attempting to conceal themselves in between some rocks and heavy brush. Agent Simon identified himself as a United States Border Patrol Agent in both the English and the Spanish languages, and questioned each individual separately as to their country of Citizenship. Each individual including one later identified as the defendant **Celestino LOPEZ-Hernandez** stated they were citizens and nationals of Mexico. All of the individuals, including the defendant stated that they had illegally crossed the border into the United States by walking through the mountains west of Tecate, California on July 7, 2008, at approximately 2 p.m. Agent Simon then asked each of them if they had any legal immigration documents which would allow them to legally remain in the United States to which all four replied that they did not. At approximately 12:15 a.m., Agent Simon placed the four individuals under arrest and arranged for them to be transported to the Brown Field Border Patrol Station for further processing.

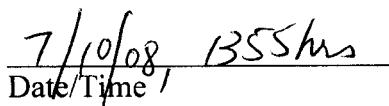
Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on March 7, 2006** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.



James Trombley
Senior Patrol Agent



William McCurine Jr.
U.S. Magistrate Judge



Date/Time, 7/10/08, 1355 hrs